

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
: :
: : 03cr813 (DLC)
-v- :
: :
ERIC KLEIN, :
: :
Defendant. :
: :
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DENISE COTE, District Judge:

On May 21, 2021, Eric Klein requested leave to file a motion for postconviction relief from his 2005 criminal conviction. The request was made pursuant to this Court's April 27, 2021 Order and complies with the conditions set forth in that Order, but it is denied as meritless.

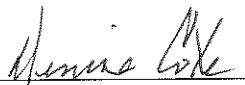
Klein's filing indicates that he wishes to file a motion alleging a claim of a Sixth Amendment violation, a claim of prosecutorial misconduct, and a claim alleging improprieties related to the collection of restitution in his case. But Klein has repeatedly, and unsuccessfully, litigated these issues before courts in this District and the Second Circuit. Courts have consistently rejected his claims related to these issues on a variety of procedural and substantive grounds. See, e.g., Klein v. United States, No. 09cv10048 (BSJ), 2012 WL 5177493, at *2-3 (S.D.N.Y. Oct. 17, 2012) (noting that Klein unsuccessfully

litigated a Sixth Amendment claim before the Second Circuit and rejecting as procedurally barred an effort to relitigate that claim); Klein v. United States, No. 09cv10048 (PAC), 2019 WL 316524, at *1-2 (S.D.N.Y. Jan. 24, 2019) (dismissing Klein's motion alleging prosecutorial misconduct and imposing a filing injunction); Klein v. United States, No. 15cv9357 (DLC), 2016 WL 297727, at *3 (S.D.N.Y. Jan. 22, 2016) (concluding that Klein's claim alleging restitution-related improprieties lacked merit). Any new motion for relief premised on these issues would meet the same fate. Accordingly, it is hereby

ORDERED that Klein's May 21, 2021 request for leave to file a motion challenging his 2005 criminal conviction is denied. To the extent that this Order qualifies as "the final order in a proceeding under [28 U.S.C. § 2255]," 28 U.S.C. § 2253(c)(1)(B), petitioner has not made a substantial showing of a denial of a federal right and, therefore, a certificate of appealability shall not be granted. Hoffler v. Bezio, 726 F.3d 144, 154 (2d Cir. 2013); Tankleff v. Senkowski, 135 F.3d 235, 241 (2d Cir. 1998); Rodriquez v. Scully, 905 F.2d 24, 24 (2d Cir. 1990). Pursuant to 28 U.S.C. § 1915(a)(3), any appeal from this Order would not be taken in good faith. Coppedge v. United States, 369 U.S. 438, 445 (1962).

IT IS FURTHER ORDERED that the Clerk of Court shall mail a copy of this Order to Klein and note mailing on the docket.

Dated: New York, New York
May 26, 2021


DENISE COTE
United States District Judge